

OFFICE OF LEGISLATIVE RESEARCH  
PUBLIC ACT SUMMARY



**PA 11-175—sSB 970**

*Public Health Committee*

*Judiciary Committee*

**AN ACT CONCERNING WORKPLACE VIOLENCE PREVENTION AND  
RESPONSE IN HEALTH CARE SETTINGS**

**SUMMARY:** This act (1) requires certain health care employers to develop and implement workplace violence prevention and response plans, (2) requires health care employers to report incidents of workplace violence to local law enforcement, and (3) establishes criminal penalties for assault of a health care employee.

The act allows the labor commissioner to adopt implementing regulations.

EFFECTIVE DATE: July 1, 2011 for the provisions on workplace safety committees, risk assessment, violence prevention plans, patient care assignment, and regulations; October 1, 2011 for the remaining provisions.

**WORKPLACE SAFETY COMMITTEE**

By October 1, 2011, the act requires each health care employer to convene a workplace safety committee to address health and safety issues pertaining to health care employees. A “health care employer” means any institution, as defined in law, with 50 or more full- or part-time employees. It includes a (1) facility caring for or treating mentally ill persons or substance abusers, (2) licensed residential care facility for persons with intellectual disability, and (3) community health center. “Institution,” with the 50-employee minimum, includes hospitals; residential care homes; health care facilities for the handicapped; nursing homes; rest homes; home health care agencies; homemaker-home health aide agencies; assisted living services agencies; outpatient surgical facilities; infirmaries operated by educational institutions; and facilities, including state facilities, providing health services.

A “health care employee” is a person directly or indirectly employed by, or volunteering for, a health care employer and who (1) is involved in direct patient care or (2) has direct contact with the patient or the patient’s family when (a) collecting or processing information needed for patient forms and record documentation or (b) escorting or directing the patient or patient’s family on the health care employer’s premises.

The workplace safety committee must include representatives from the administration; physician, nursing and other direct patient care staff; security personnel; and any other staff determined appropriate by the employer. At least 50% of the membership must be nonmanagement employees. The committee must select a chairperson from its membership. It must meet at least quarterly and make meeting minutes and other records of proceedings available to all

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employees.

### RISK ASSESSMENT; WORKPLACE VIOLENCE PREVENTION AND RESPONSE PLAN

By October 1, 2011 and annually afterwards, each health care employer must prepare an assessment of the factors that put any health care employee at risk for workplace violence. Based on these findings, the employer, by January 1, 2012 and annually afterwards, must develop and implement a workplace violence prevention and response plan in collaboration with the workplace safety committee.

Under the act, a hospital may use an existing committee it has established to assist with the plan if, as required by the act, at least 50% of the committee membership are nonmanagement employees. The employer, when developing the plan, can consider any guidance on workplace violence provided by a government agency, including the federal Occupational Safety and Health Administration, the federal Centers for Medicare and Medicaid Services, the state Public Health (DPH) and Labor departments, and any hospital accrediting organization.

A health care employer can meet the act's requirements for a workplace violence prevention and response plan by using existing policies, plans, or procedures if, after performing the risk assessment, the employer, in consultation with the safety committee, determines that they are sufficient.

### ADJUSTING PATIENT ASSIGNMENTS

To the extent practicable, a health care employer must adjust patient care assignments so that an employee requesting an adjustment does not have to treat a patient who the employer knows has intentionally physically abused or threatened the employee. The employer must give due consideration to its obligation to meet the needs of all patients. The act specifies that patient behavior that is a direct manifestation of a patient's condition or disability, including physical abuse or threatening behavior, is not considered intentional physical abuse or threatening an employee.

An employee who has been physically abused or threatened by a patient may request that a second employee be present when treating the patient in situations where the employer determines that adjusting the patient assignment is not practicable.

### RECORDS

The act requires health care employers to keep records detailing workplace violence incidents, including the specific area or department where the incident happened. Upon DPH's request, an employer must report the number of incidents occurring on the employer's premises and the specific areas or departments where they occurred.

### REPORTING TO LOCAL LAW ENFORCEMENT

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A health care employer must report to its local law enforcement agency any act that may constitute an assault or related offense under the Penal Code against an employee acting in the performance of his or her duties. The report must be made within 24 hours of the act and include the names and addresses of those involved. An employer does not have to provide a report if the assault or related offense was committed by a person with a disability and the act is a clear and direct manifestation of the disability. "Disability" means mental retardation or a mental or physical disability.

### ASSAULT OF HEALTH CARE PERSONNEL

The act makes assault of a health care employee a class C felony (see Table on Penalties). It also specifies that it is a defense that the defendant has a mental or physical disability or mental retardation.

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